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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,205	01/16/2001	Richard J. Rovinelli	110346.100US2	3069

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EXAMINER	
GILLIGAN, CHRISTOPHER L	
ART UNIT	PAPER NUMBER

3626

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/759,205	ROVINELLI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Luke Gilligan	3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 October 2002.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) \_\_\_\_\_ is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 2-52 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 2-43, 46-48, and 52, drawn to a system and method for evaluating a user's problem solving skills in response to patient interventions input by the user, classified in class 705, subclass 3.
  - II. Claims 44 and 51, drawn to a method for training a on patient treatment practices by iterating through predetermined health states, classified in class 434, subclass 262.
  - III. Claim 45 drawn to a method for simulating a full fidelity model of a patient having at least one predetermined health state, classified in class 703, subclass 11.
  - IV. Claims 49 drawn to a method for evaluating a plurality of user's problem solving skills in response to interventions input by users for copies of simulated patients, classified in class 705, subclass 3.
  - V. Claim 50, drawn to a method of establishing a standard for a minimum level of patient care, classified in class 705, subclass 2.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I-V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as evaluating a single user based upon interventions made to a simulated patient. Invention II has separate utility such as iterating through predetermined health states in response to interventions to train a user on patient treatment practices. Invention III has separate utility such as simulating a

biological system such as a patient having at least one predetermined health state. Invention IV has separate utility such as creating a plurality of copies of a simulated patient and evaluating a plurality of user's problem solving skills in response to interventions input by the users to the plurality of simulated patients. Invention V has separate utility such as establishing a minimum level of patient care based on queries received from a plurality of users in response to a simulated patient. See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above, have acquired a separate status in the art as shown by their different classification, and the search required for each of the groups are not required for the other, restriction for examination purposes as indicated is proper.

4. No telephone communication need be made where the requirement for a restriction is complex, the application is being prosecuted by the applicant *pro se*, or the examiner knows from past experience that an election will not be made by telephone. See MPEP § 812.01. In the present instance, it is deemed that the restriction is complex enough to require a written explanation of the distinction between the inventions. Hence, no telephonic restriction was made.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

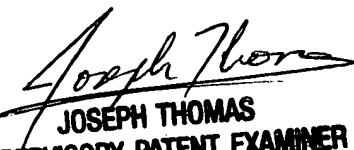
Art Unit: 3626

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (703) 308-6104. The examiner can normally be reached on Monday-Friday 8am-5:30pm.
8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.
9. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



CLG  
December 30, 2002



JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600